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October 31, 2014

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The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Federal Communications Commission
Bureau / Office

**Re: *Maritime Communications/Land Mobile (MCLM)*
WT Docket No. 13-85, EB Docket No. 11-71**

Dear Chairman Wheeler:

The undersigned associations, representing various aspects of the energy telecommunications community, appreciate this opportunity to share their concerns regarding the Commission's recent Memorandum Opinion and Order ("MO&O") in the above-captioned proceeding, which concluded that certain operations by electric utilities and oil and gas companies are business-related and not primarily grounded in public safety.¹

In its MO&O, the Commission considered separate applications to assign small portions of Maritime Communications/Land Mobile LLC's ("MCLM") AMTS licenses to twelve critical infrastructure industry ("CII") companies, including electric utilities, oil and gas companies, and a railroad, as part of a lengthy hearing proceeding involving MCLM's character qualifications.² The Commission concluded it was in the public interest to remove from the hearing an application to assign spectrum from MCLM to the Southern California Regional Rail Authority ("SCRRA") for Positive Train Control ("PTC") but rejected similar

¹ Memorandum Opinion and Order ("MO&O"), FCC 14-113, (rel. Sept. 11, 2014).

² Maritime Communications/Land Mobile, LLC, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, EB Docket No. 11-71, 26 FCC Rcd 6520 (2011) ("HDO").

requests to remove pending applications to assign spectrum to a number of electric utilities and oil and gas companies for Supervisory Control and Data Acquisition ("SCADA"), smart grid, and other critical operations in the energy industry.

The Commission recognized electric utilities and oil and gas companies:

...are critical infrastructure industry entities under the Commission's Rules. We acknowledge as well that important public benefits stem from the operation of, for example, SCADA systems by oil and gas companies and smart grid systems by electric cooperatives and other utilities. Although the CII Companies' proposals to use the spectrum licenses for SCADA, smart grid and similar applications would be beneficial to the public, unlike PTC, those other services are not dedicated to communications to prevent human injury and property damage, but are also used for day-to-day facilities management and other purposes that primarily serve the business needs of the licensee.³

The Commission's conclusion that electric utilities and oil and gas companies require use of these frequencies primarily to serve their business needs – and not public safety – is inconsistent with the experience of the undersigned associations. These frequencies are used by energy companies to monitor and detect the leakage of lethal gases, to comply with President Obama's cybersecurity goals, to evaluate damage during and after hurricanes and other disasters in order to restore service as quickly as possible, and for a host of other critical applications necessary to support the production, transmission, and distribution of energy services for police stations, fire stations, hospitals, nursing homes, military bases, and residential consumers with life-saving electric-powered medical devices. Even the ordinary purposes to which reliable and affordable energy are put prevent human injury and property damage, including pumping clean water for human and animal consumption, air conditioning and heating for sensitive human populations and temperature-sensitive poultry and livestock, refrigeration of food and dairy to prevent disease and spoilage, heating water and cooking food to prevent disease, and many, many others. Extended interruptions in energy delivery – that could be reduced in extent and shortened in duration through use of SCADA and smart grid technologies – can lead to deaths and serious injuries, the loss of property and livestock, and billions of dollars in lost internet and financial sector revenue.

While we support the development of PTC and recognize the public safety implications of PTC, we strongly believe SCADA, smart grid, and other applications by electric utilities and oil and gas companies serve equally critical public safety functions. As the Commission noted in the MO&O, a host of regulatory and statutory mandates apply to wireless communications by electric utilities and oil and gas companies, including but not limited to Pipeline Hazardous

³ MO&O, Para. 36.

Materials Safety Administration requirements governing control room management of pipelines, Environmental Protection Agency monitoring standards, North American Electric Reliability Corporation standards applicable to utilities, and smart grid and other operations key to homeland security.⁴

Two rural electric cooperatives – Dixie Electric Membership Corp. (DEMCO), a rural electric cooperative that serves 97,000 locations in Louisiana, and the Shenandoah Valley Electric Cooperative (SVEC), an electric cooperative serving more than 93,000 members in rural portions of Virginia – recently filed Petitions for Reconsideration of the Commission’s decision.⁵ Enbridge Energy Company, Inc. (“Enbridge”), an indirect, wholly-owned subsidiary of Enbridge, Inc., which owns and operates the world’s longest and most sophisticated oil and liquids transportation system, filed a similar Petition.⁶ All urged the Commission to revisit its decision that operations by these types of critical infrastructure companies are not grounded in public safety and do not warrant exclusion from the long pending FCC hearing proceeding involving MCLM’s qualifications to retain its licenses.

The undersigned associations support these energy companies and the other critical infrastructure companies seeking spectrum to facilitate their safe and efficient delivery of critical services to the American public.⁷ We urge the Commission to reconsider its decision. Some of these applications have now been pending before the FCC for 4 or 5 years. It is long past time they be removed from the hearing proceeding and granted in the public interest.

⁴ MO&O, fn. 110.

⁵ Motion of Shenandoah Valley Electric Cooperative for Reconsideration, or in the Alternative, Petition for Leave to Intervene, Oct. 8, 2014; DEMCO Petition for Reconsideration, Oct. 14, 2014.

⁶ Enbridge Petition for Reconsideration, Oct. 14, 2014.

⁷ Other CII entities that have been impacted by this proceeding are Atlas Pipeline Mid-Continent, LLC, EnCana Oil & Gas (USA) Inc., Jackson County Rural Membership Electric Cooperative, Duquesne Light Company, and Puget Sound Energy. Subsequent to issuance of the HDO, Rappahannock Electric Cooperative (REC) entered into a spectrum lease with MCLM (0004899239). Four other CII companies (DCP Midstream, LP, Denton County Electric Cooperative, Inc., Interstate Power and Light Company, and Wisconsin Power and Light Company) have dropped out of the hearing proceeding in the three and one-half years since it was initiated.

Sincerely,

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Attachments: Certificate of Service List

S/GBR

CERTIFICATE OF SERVICE

I, Beverly Harding, hereby certify that on this 31st of October, a copy of the foregoing letter was filed with the Commission, served on the parties listed below via First Class U.S. Mail and a courtesy copy was provided via electronic mail.

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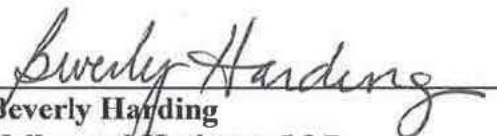
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